

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

TROY LEVON FENTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:06CV27 FRB
	)	
UNKNOWN NORTHERN, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Presently pending before the Court are plaintiff Troy Levon Fenton's Motion to Dismiss Without Prejudice (Docket No. 9) and plaintiff's letter (Docket No. 11) wherein he seeks to clarify the Motion to Dismiss.

Plaintiff is a Missouri state prisoner who brings this action pursuant to 42 U.S.C. § 1983. Upon plaintiff's filing of a motion to proceed in forma pauperis, this Court underwent the analysis required under 28 U.S.C. § 1915(b) in determining the method and manner of payment of the filing fee in this cause. The Court specifically noted that plaintiff was required to pay the full amount of the filing fee but determined that plaintiff was currently unable to pay the full fee. As such, pursuant to 28 U.S.C. § 1915(b)(1), the Court assessed an initial partial filing fee of \$15.98 to be paid not later than April 3, 2006, with the Missouri Department of Corrections to forward monthly payments thereafter from plaintiff's account until such fee is paid in full.

In his Motion to Dismiss, plaintiff requests that he be permitted to dismiss the instant cause without prejudice so that he not be required to pay the filing fee. In his subsequent letter, plaintiff requests that in the event he must pay the filing fee regardless of dismissal, that he be permitted to proceed with the cause.

A prisoner who "brings a civil action or files an appeal in forma pauperis . . . shall be required to pay the full amount of a filing fee." 28 U.S.C. § 1915(b)(1). Even if such an action is dismissed, the prisoner is still assessed the full filing fee because the Prisoner Litigation Reform Act "makes prisoners responsible for their filing fees the moment the prisoner brings a civil action[.]" In re Tyler, 110 F.3d 528, 529-30 (8th Cir. 1997); see also McGore v. Wrigglesworth, 114 F.3d 601, 607 (6th Cir. 1997) (cited approvingly in Henderson v. Norris, 129 F.3d 481 (8th Cir. 1997)). Inasmuch as plaintiff continues to be obligated to pay the filing fee in this cause regardless of his requested dismissal, plaintiff's letter in which he requests to proceed in the cause shall be honored.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff Troy Levon Fenton's Motion to Dismiss Without Prejudice (Docket No. 9) is denied without prejudice.

**IT IS FURTHER ORDERED** that this Court's Order entered

March 3, 2006, ordering that plaintiff pay the initial partial filing fee of \$15.98 not later than April 3, 2006, remains in full force and effect.

  
UNITED STATES MAGISTRATE JUDGE

Dated this 14th day of March, 2006.